



NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

ARTURO GONZALEZ,

Debtor.

Case No. 2:15-bk-25283-RK

Chapter 7

**MEMORANDUM DECISION ON TRUSTEE'S
MOTION OBJECTING TO EXEMPTIONS
CLAIMED IN DEBTOR'S AMENDED
SCHEDULES FILED ON MAY 21, 2019**

Date: August 20, 2019

Time: 10:30 a.m.

Courtroom: 1675

This bankruptcy case came on for hearing on August 20, 2019 before the undersigned United States Bankruptcy Court on the motion of Wesley H. Avery, Chapter 7 Trustee, objecting to exemptions claimed in a homestead and in real estate brokerage commissions identified in the amended schedules filed by Debtor Arturo Gonzalez, filed on May 21, 2019 (Docket No. 395, filed on May 25, 2019). Brett B. Curlee, Law Offices of Brett Curlee, appeared for the Trustee, and the Trustee also appeared for himself. Debtor Arturo Gonzalez appeared for himself.

Having considered the moving and opposing papers and the oral and written

1 arguments of the parties, the court grants the motion in part and denies it in part.

2 The court denies the motion in part because the amended schedules filed by
3 Debtor on May 21, 2019 (Docket No. 393) does not claim any property as exempt, let
4 alone, any homestead exemption or in real estate brokerage commissions as Schedule
5 C in the amended schedules shows.

6 The court grants the motion in part because the court's prior rulings determining
7 Debtor's exemptions in its orders on the Trustee's prior motions objecting to Debtor's
8 claimed exemptions, Order on Chapter 7 Trustee's Motion Objecting to the Debtor's
9 Claimed Exemption Certain Personal Property Assets (Docket No. 11), filed and
10 entered on July 12, 2016, and Order Amending Prior Decision After Trial on Contested
11 Matter of the Chapter 7 Trustee's Motion Objecting to the Debtor's Claimed Homestead
12 Exemption in Real Property Located at 329 Hawaiian Avenue, Wilmington, CA and
13 Ruling on Contested Matter of Chapter 7 Trustee's Motion Objecting to Debtor's
14 Amended Claimed Homestead Exemption on Same Property and Tools of the Trade
15 Exemption, filed and entered on April 16, 2019, are the law of the case regarding his
16 claimed exemptions in this case.

17 "Under the 'law of the case' doctrine, a court [will not] reexamin[e] an issue
18 previously decided by the same or higher court in the same case." *United States v.*
19 *Jingles*, 702 F.3d 494, 499 (9th Cir. 2012), *cited in*, *In re Flashcom, Inc.*, 503 B.R. 99,
20 127 (C.D. Cal. 2013). "A decision on a factual or legal issue must be followed in all
21 subsequent proceedings in the same case in the trial court or on a later appeal in the
22 appellate court, unless the evidence on a subsequent trial was substantially different,
23 controlling authority has since made a contrary decision of the law applicable to such
24 issues, or the decision was clearly erroneous and would work a manifest injustice." *Pit*
25 *River Home and Agricultural Cooperative Association v. United States*, 30 F.3d 1088,
26 1096-1097 (9th Cir. 2004), *cited in*, *In re Flashcom, Inc.*, 503 B.R. at 127. "For the
27 doctrine to apply, the issue in question must have been decided explicitly or by
28 necessary implication in [the] previous disposition." *United States v. Jingles*, 702 F.3d

1 at 499, *cited in, In re Flashcom, Inc.*, 503 B.R. at 127.

2 The court in its prior orders had determined Debtor's claimed exemptions in this
3 case and that he was equitably estopped from claiming a different set of exemptions
4 from the ones that were litigated to trial in this case. Therefore, Debtor cannot claim
5 exemptions in this case different from those litigated to a final order or judgment in this
6 case because the factual and legal issues relating to Debtor's claiming of exemptions
7 have already been litigated and decided, and such decisions must be followed in all
8 subsequent proceedings.

9 On Schedule C in the amended schedules filed on May 21, 2019, Debtor makes
10 statements purportedly affecting his claimed exemptions that "since zero debt can be
11 discharged, Debtor is not eligible for a Bankruptcy Discharge as this case was
12 administer [sic] in error & therefore, cannot claim any exemptions Also, note as of
13 Jan 16, 2016 estate was solvent \$67,339.03 therefore, this is further proof there are
14 damages." These statements in this Amended Schedule C are merely statements of
15 Debtor's views regarding his claimed exemptions and do not affect the law of the case
16 set forth in the court's prior rulings, except to the extent that Debtor is no longer claiming
17 any exemptions in this case.

18 A separate final order is being filed and entered concurrently herewith.

19 IT IS SO ORDERED.

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25 Date: August 21, 2019



Robert Kwan
United States Bankruptcy Judge